

## Agricultural Marketing Service, USDA

## § 928.42

requests a copy of the report. This annual report shall contain at least: (a) A complete review of the regulatory operations during the fiscal year; (b) an appraisal of the effect of such regulatory operations upon the papaya industry; and (c) any recommendations for changes in the program.

### EXPENSES AND ASSESSMENTS

#### § 928.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by the committee for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part during each fiscal year. The funds to cover such expenses shall be acquired by the levying of assessments as prescribed in § 928.41.

#### § 928.41 Assessments.

(a) Each person who first handles papayas shall, with respect to the papayas so handled by him, pay to the committee upon demand such person's pro rate share of the expenses which the Secretary finds are reasonable and likely to be incurred by the committee during each fiscal year. Each such person's share of such expenses shall be equal to the ratio between the total quantity of papayas handled by him as the first handler thereof during the applicable fiscal year and the total quantity of papayas so handled by all persons during the same fiscal year. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

(b) The Secretary shall fix the rate of assessment to be paid by each such person. At any time during or after the fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such expenses shall be applied to all papayas handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this

part during the first part of a fiscal year before sufficient operating income is available from assessments on the current year's shipments, the committee may accept the payment of assessments in advance, and may also borrow money for such purpose. Assessments not paid within a period of time prescribed by the committee may be made subject to interest or late payment charges, or both. The period of time, rate of interest, and late payment charge shall be as recommended by the committee and approved by the Secretary. When such interest or late payment charges are in effect, they shall be applied to all assessments not paid within the prescribed period of time.

[36 FR 8925, May 15, 1971, as amended at 53 FR 864, Jan. 14, 1988]

#### § 928.42 Accounting.

(a) If, at the end of a fiscal year the assessments collected are in excess of expenses incurred, such expenses shall be accounted for as follows:

(1) Except as provided in paragraphs (a) (2) and (3) of this section, each person entitled to a proportionate refund of any excess assessment shall be credited with such refund against the operation of the following fiscal year unless such person demands payment thereof, in which event it shall be paid to him: *Provided*, That any sum paid by a person in excess of this pro rata share of the expenses during any fiscal year may be applied by the committee at the end of such fiscal year to any outstanding obligations from such person.

(2) The committee, with the approval of the Secretary, may establish and maintain during one or more fiscal years, an operating monetary reserve in an amount not to exceed approximately 1 fiscal year's operational expense. Upon approval by the Secretary, funds in such reserve shall be available for use by the committee for all expenses pursuant to § 928.40.

(3) Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds will be returned

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pro rata to the persons from whom such funds were collected.

(b) All funds received by the committee pursuant to the provisions of this part shall be used solely for the purposes specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the committee and its members to account for all receipts and disbursements.

(c) Upon the removal or expiration of the term of office of any member of the committee, such member shall account for all receipts and disbursements and deliver all property and funds in his possession to his successor in office and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor full title to all of the property, funds and claims vested in such member pursuant to this part.

#### RESEARCH

#### § 928.45 Production research, marketing research and development.

(a) The committee, with the approval of the Secretary may establish or provide for the establishment of production research, marketing research, and development projects designed to assist, improve, or promote the production, marketing, distribution, and consumption of papayas. Such projects may provide for any form of marketing promotion including paid advertising. The expense of such projects shall be paid by funds collected pursuant to § 928.41.

(b) In recommending projects pursuant to this section, the committee shall give consideration to the following factors:

(1) The expected supply of papayas in relation to market requirements;

(2) The supply situation among competing areas and commodities;

(3) The need for production or marketing research with respect to any production or marketing development activity.

(c) If the committee should conclude that a program of production or marketing research or development should be undertaken or continued pursuant to this section in any fiscal year, it

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shall submit the following for the approval of the Secretary:

(1) Its recommendation as to funds to be obtained pursuant to the applicable provisions of this part and the rate of assessment required to obtain such funds;

(2) Its recommendation as to any production research or marketing research projects; and

(3) Its recommendation as to promotion activity and paid advertising.

#### REGULATIONS

#### § 928.50 Marketing policy.

(a) Each season prior to making any recommendations pursuant to § 928.51, the committee shall submit to the Secretary a report setting forth its marketing policy for the season. Such marketing policy report shall contain information relative to:

(1) The estimated total production of papayas within the production area;

(2) The estimated utilization of the crop, showing the quantity and percentages of the crop expected to be marketed through fresh fruit channels within the State of Hawaii, within the continent of North America, and within the balance of the markets of the world; and showing the quantity and percent of the crop expected to be marketed through byproduct channels, together with quantities otherwise to be disposed of;

(3) Available supplies of competitive papayas in all producing areas of the United States and other competitive producing areas;

(4) Trend and level of consumer income;

(5) Other factors having a bearing on the marketing of papayas; and

(6) The type of regulations expected to be recommended during the season.

(b) In the event that it becomes advisable to substantially modify such marketing policy the committee shall submit to the Secretary a revised marketing policy setting forth the information as required in this section. The committee shall transmit a copy of each marketing policy report or revision thereof to the Secretary. Copies of all such reports shall be maintained in the office of the committee where they shall be available for examination by